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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,055	07/11/2006	John Douglas Peter Morgan	2442-01700 (11292P5 USw)	6149
23505	7590	04/28/2008	EXAMINER	
CONLEY ROSE, P.C. David A. Rose P. O. BOX 3267 HOUSTON, TX 77253-3267			JOYNER, KEVIN	
			ART UNIT	PAPER NUMBER
			1797	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,055	Applicant(s) MORGAN, JOHN DOUGLAS PETER	
	Examiner KEVIN C. JOYNER	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/17/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 23-26, 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Laudamiel-Pellet et al. (U.S. Publication No. 2002/0068010).

Laudamiel-Pellet discloses a portable device for enabling vaporization of a chemical formulation into an atmosphere comprising: receiving means (126) for receiving a cartridge (22), the receiving means having an opening and a recess into which the cartridge is inserted (Figure 2); the cartridge storing the chemical formulation; heater means (132) for contacting the chemical formulation and vaporizing the chemical formulation when the cartridge is inserted into the receiving means and the heater means is energized (paragraph 122); aperture means (12 & 13) to enable vaporized chemical formulation to be guided therethrough into the atmosphere; wherein the recess of the receiving means and the cartridge have means for providing an interference fit in order to locate the cartridge in a predetermined position with respect to the heater means (paragraph 122 and 124) as disclosed in paragraphs 48-52. Regarding claim 24, the reference continues to disclose that the recess has projection means (140), which are lugs as broadly defined (concerning claim 26), that provide the interference fit

with indentation means (98) which are notches (concerning claim 25), on the cartridge and thereby give a tactile indication to a user that the cartridge has reached the predetermined position (paragraph 126).

Concerning claim 30, the reference also discloses that the cartridge has a wick (paragraph 70) in contact with the chemical formulation such that when the predetermined position is reached the wick is in contact with the heater means (paragraph 124). Regarding claim 31, Laudamiel-Pellet continues to disclose that the recess has a guide means for guiding the cartridge when the cartridge is inserted into the recess as shown in Figure 2. More specifically, the door (136) is provided with a material located on the bottom and on the inner part of said door that the cartridge slides into while being inserted. This portion is a guide means. Concerning claim 32, the reference also discloses an electrical circuit means that is capable of providing one or more pulses sequentially to the heater means so as to enable the heater means to vaporize the chemical formulation (paragraph 127).

3. Claim 23 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Feng (U.S. Patent No. 6,293,044).

Feng discloses a portable device for enabling vaporization of a chemical formulation into an atmosphere comprising: receiving means (11) for receiving a cartridge (52), the receiving means having an opening and a recess into which the cartridge is inserted (Figure 1); the cartridge storing the chemical formulation; heater means (41) for contacting the chemical formulation and vaporizing the chemical formulation when the cartridge is inserted into the receiving means and the heater

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means is energized; aperture means (122) to enable vaporized chemical formulation to be guided therethrough into the atmosphere (paragraph 116); wherein the recess of the receiving means and the cartridge have means for providing an interference fit in order to locate the cartridge in a predetermined position with respect to the heater means as disclosed in column 2, lines 23-68. More specifically, as broadly defined a cartridge is known as a small modular unit designed to be inserted into a larger unit. Therefore, the mat (52) is a cartridge.

4. Claims 23, 27-34, 38 and 39 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by DeWitt et al. (U.S. Patent No. 6,104,866).

DeWitt discloses a portable device for enabling vaporization of a chemical formulation into an atmosphere comprising: receiving means (182) for receiving a cartridge (164), the receiving means having an opening and a recess into which the cartridge is inserted (Figures 1-4); the cartridge storing the chemical formulation; heater means (180) for contacting the chemical formulation and vaporizing the chemical formulation when the cartridge is inserted into the receiving means and the heater means is energized; aperture means (184) to enable vaporized chemical formulation to be guided therethrough into the atmosphere (paragraph 116); wherein the recess of the receiving means and the cartridge have means for providing an interference fit in order to locate the cartridge in a predetermined position with respect to the heater means (Figures 1-4) as disclosed in column 7, lines 1-50. Concerning claim 27, the reference continues to disclose that the recess has indentation means, which are notches (concerning claim 28), that provides the interference fit with projection means, which are

lugs as broadly defined (concerning claim 29), on the cartridge and thereby give a tactile indication to a user that the cartridge has reached the predetermined position as shown in Figure 4. The reference continues to disclose guide means for guiding the cartridge when the cartridge is inserted into the recess as well (Figures 1-4) concerning claim 31.

With regard to claim 32, DeWitt also discloses that the device comprises electrical circuit means that is capable of providing one or more pulses sequentially to the heater means so as to enable the heater means to vaporize the chemical formulation (column 3, lines 28-38). Regarding claims 34 and 35, the reference discloses a partition comprising an electrical circuit board dividing the interior of the device into a first compartment and a second compartment as shown in Figures 1-5 (column 4, lines 13-30; column 7, lines 20-50). Concerning claim 38, the reference continues to disclose that the device is constructed as two detachable members wherein a first member houses the receiving means and having aperture means and a second member houses a power supply as shown in Figures 4 and 5. Regarding claim 39, DeWitt discloses that the electrical circuit means is mounted on an electrical circuit board (column 3, lines 28-38; column 4, lines 25-32; column 7, lines 10-15) acting as a partition between the first member and the second member as shown in Figures 4 and 5

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 35-37 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWitt et al. (U.S. Patent No. 6,104,866) in view of Cox et al. (U.S. Publication No. 2003/0156829).

Regarding claims 35 and 40, as disclosed above, Dewitt discloses that the device comprises a circuit board, but does not appear to disclose if the circuit board is single or double sided. Thus, one of ordinary skill would turn to the prior art in order to determine an appropriate circuit board. Cox discloses a portable device for enabling vaporization of a chemical formula into the atmosphere, wherein said device comprises a heater and a circuit board (paragraphs 9 and 20). The reference continues to disclose that double sided circuit boards are appropriate circuit boards for such a device (paragraph 22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a double sided circuit board in the device of DeWitt as such circuits boards are appropriate circuits boards in the art as exemplified by Cox. With regard to claim 36, DeWitt continues to disclose that the electrical components of the electrical circuit means is located on one or both sides of the electrical circuit board as shown in Figure 2. Regarding claims 37 and 41 the reference also discloses that the heater means is mounted on a side of the electrical circuit board within the first compartment, the first compartment housing the receiving means and having the aperture means so as to enable the heater means to contact the chemical

formulation on the cartridge when the cartridge is inserted into the receiving means as shown in Figures 1 and 2 (column 3, lines 1-4; column 5, lines 55-60).

7. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWitt et al. (U.S. Patent No. 6,104,866) in view of Cox et al. (U.S. Publication No. 2003/0156829) as applied to claim 40 above, and further in view of Muderlak et al. (U.S. Patent No. Re. 34,847).

DeWitt in view of Cox is relied upon as set forth above with reference to claim 40. DeWitt in view of Cox does not appear to disclose that the device further comprises a switch means to activate and deactivate power supplied to the heater means or an indicator means for indicating battery charge status. Muderlak discloses a portable scent emitting device that utilizes batteries as a power source in order to eliminate the need for an electrical power outlet. The reference continues to disclose that the device comprises a switch that activates and deactivates the battery power supply in order to control and preserve said power supply and further discloses an indicator means that is provided in order to notify a user of the battery charge status in column 4, lines 3-15. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize batteries as the power source in order to eliminate the need for an electrical power outlet and subsequently provide an on/off switch and power indicator to control and preserve said power supply and notify a user of the battery charge status as exemplified by Muderlak.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN C. JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elizabeth L McKane/
Primary Examiner, Art Unit 1797

KCJ